

ESTTA Tracking number: **ESTTA467779**

Filing date: **04/18/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Zenith Optimedia Group Limited
Granted to Date of previous extension	04/18/2012
Address	Kensington Village Avonmore Road Pembroke Building London, W14 8DG UNITED KINGDOM
Domestic Representative	Stephen F. Roth Lerner, David, Littenberg, Krumholz & Mentlik 600 South Avenue West Westfield, NJ 07090 UNITED STATES sroth@ldlkm.com, litigation@ldlkm.com Phone:908 654 5000

Applicant Information

Application No	85182635	Publication date	12/20/2011
Opposition Filing Date	04/18/2012	Opposition Period Ends	04/18/2012
Applicant	Zenith Design Group, Inc. 125 Church Street, Suite 110 Marietta, GA 30060 UNITED STATES		

Goods/Services Affected by Opposition

Class 042. First Use: 1998/12/12 First Use In Commerce: 1998/12/12
All goods and services in the class are opposed, namely: creation, design, development and maintenance of web sites for third parties

Grounds for Opposition

Other	Section 2(d) of the Trademark Act
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Attachments	notice of opposition - zenith design group.pdf (5 pages)(17602 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Stephen F. Roth/
Name	Stephen F. Roth
Date	04/18/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

ZENITH OPTIMEDIA GROUP LIMITED,	:	Serial No. 85/182,635
	:	
	:	
Opposer,	:	Filed: November 22, 2010
	:	
v.	:	For: ZENITH
	:	
	:	
ZENITH DESIGN GROUP, INC.	:	Published: December 20, 2011
	:	
Applicant.	:	Opposition No. _____
_____	X	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Opposer, Zenith Optimedia Group Limited, a Limited Liability Company organized in the United Kingdom and located at Kensington Village Avonmore Road Pembroke Building, London, W14 8DG, United Kingdom, believes that it will be damaged by registration of the ZENITH mark for which Applicant seeks registration. Accordingly, Opposer hereby opposes registration of Serial No. 85/182,635 ("the Application"). As grounds for the opposition, Opposer alleges as follows:

1. On November 22, 2010, Zenith Design Group, Inc. ("Applicant") filed for registration of the mark ZENITH.

2. Opposer has been using the ZENITH mark long before Applicant filed the Application for registration of the ZENITH mark.

3. Opposer is the owner of Registration No. 1,943,149 for the mark ZENITHMEDIA, which mark has been registered for the following goods in Class 35.

Planning and placing advertisements for others in various media; advertising agency services; promoting the goods and services of others through direct mail advertising; distribution of printed material, discount cards and coupons and administration of incentive award programs; business management consultation; business planning; arranging and conducting trade shows, conferences and exhibitions to promote the goods and services of others.

4. Prior to Applicant's adoption and use of the ZENITH mark, Opposer began and has been using the mark ZENITH in connection with a wide variety of goods and services offered throughout the world, and in interstate commerce in the United States, for the above and other goods and services including those related to web sites.

5. As a result of extensive promotion of its goods and services, Opposer has built up highly valuable goodwill in the ZENITH mark in alone and as a formative. Such goodwill has become closely and uniquely identified and associated with Opposer prior to the filing of the Application by Applicant.

6. The Application for the ZENITH mark by Applicant is for services in Class 42 including, creation, design, development and maintenance of web sites for third parties in International Class 42.

7. The services covered by the Opposed Application are similar to or closely related to the goods and services offered by Opposer in connection with Opposer's ZENITH mark.

8. Applicant's ZENITH mark was filed on a use basis, pursuant to § 1(a) and claims a date of first use of December 12, 1998. Opposer has superior rights in and to its ZENITH mark because its common-law and registered use pre-dates the stated date of entry into the market by Applicant.

9. Opposer's ZENITH mark is identical to Applicant's ZENITH mark and Opposer will suffer harm as a result of the confusion likely to arise from the registration of the Application, and from Opposer's ongoing use of its ZENITH mark for the same or similar goods.

10. Accordingly, Applicant's mark should be denied registration under Section 2(d) of the Trademark Act (15 U.S.C. § 1052(d)).

11. This opposition is timely given the extension of time the Board has granted to Opposer in this matter through and including April 18, 2012.

12. Please charge the fee of \$300.00 for a Notice of Opposition in one class to our Deposit Account No. 12-1095. The undersigned is authorized to make charges to said deposit account.

WHEREFORE, Opposer requests that the Board refuse registration of Application Serial No. 85/182,635, and that this Opposition be sustained.

Respectfully submitted,

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
*Attorneys for Opposer Zenith Optimedia
Group Limited*
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000

Dated: April 18, 2012

By: /Stephen F. Roth/
STEPHEN F. ROTH

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Notice of Opposition was served on April 18, 2012, by first-class mail, postage prepaid, addressed as follows:

Michael B. Lasky, Esq.
Altera Law Group LLC
850 One Financial Plaza
120 South 6th Street
Minneapolis MN 55402

/Stephen F. Roth/
STEPHEN F. ROTH